

APPEAL NO. 162182
FILED DECEMBER 21, 2016

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on September 26, 2016, in (city), Texas, with (hearing officer) presiding as hearing officer. The hearing officer resolved the disputed issues by deciding that: (1) the (date of injury), compensable injury does not extend to Achilles tendinosis (apart from the acute exacerbation of chronic Achilles tendinosis of the right ankle accepted by the respondent (carrier)), sequela partial thickness tear of the right Achilles, and tenosynovitis involving flexor digitorum longus, peroneus longus, and peroneus brevis tendon; (2) the appellant (claimant) reached maximum medical improvement (MMI) on September 12, 2014; and (3) the claimant's impairment rating (IR) is zero percent.

The claimant appealed all of the hearing officer's determinations, contending that the evidence does not support those determinations. The carrier responded, urging affirmance.

DECISION

Affirmed in part and reversed and rendered in part.

The parties stipulated that the claimant sustained a compensable injury on (date of injury), and that the carrier has accepted an acute exacerbation of chronic Achilles tendinosis of the right ankle. The claimant testified that the ladder on which he was standing while working on ceiling railings slipped out from underneath him, causing him to fall to the floor and sustain injuries.

EXTENT OF INJURY

The hearing officer's determination that the (date of injury), compensable injury does not extend to sequela partial thickness tear of the right Achilles and tenosynovitis involving flexor digitorum longus, peroneus longus, and peroneus brevis tendon is supported by sufficient evidence and is affirmed.

The hearing officer also determined that the (date of injury), compensable injury does not extend to Achilles tendinosis, apart from the acute exacerbation of chronic Achilles tendinosis of the right ankle accepted by the carrier.

In reviewing a "great weight" challenge, we must examine the entire record to determine if: (1) there is only "slight" evidence to support the finding; (2) the finding is

so against the great weight and preponderance of the evidence as to be clearly wrong and manifestly unjust; or (3) the great weight and preponderance of the evidence supports its nonexistence. See *Cain v. Bain*, 709 S.W.2d 175 (Tex. 1986).

As noted above, and also by the hearing officer, the parties stipulated at the CCH that the carrier has accepted an acute exacerbation of chronic Achilles tendinosis of the right ankle. The evidence did not establish that an acute exacerbation of chronic Achilles tendinosis of the right ankle is a distinct and separate condition from the disputed Achilles tendinosis of the right ankle. The hearing officer's determination that the (date of injury), compensable injury does not extend to Achilles tendinosis, apart from the acute exacerbation of chronic Achilles tendinosis of the right ankle accepted by the carrier, is internally inconsistent with the parties' stipulation. We hold that the hearing officer's determination is against the great weight and preponderance of the evidence. Accordingly, we reverse the hearing officer's determination that the (date of injury), compensable injury does not extend to Achilles tendinosis, apart from the acute exacerbation of chronic Achilles tendinosis of the right ankle accepted by the carrier, and we render a new decision that the (date of injury), compensable injury extends to Achilles tendinosis.

MMI/IR

The hearing officer determined that the claimant reached MMI on September 12, 2014, with a zero percent IR as certified by (Dr. P), the designated doctor appointed by the Texas Department of Insurance, Division of Workers' Compensation. Dr. P examined the claimant on November 21, 2015, and certified on November 30, 2015, that the claimant reached MMI on September 12, 2014, with a zero percent IR based on an acute exacerbation of Achilles tendinosis. Dr. P's MMI/IR certification considers and rates the compensable injury in this case. Accordingly, the hearing officer's determinations that the claimant reached MMI on September 12, 2014, with a zero percent IR are supported by sufficient evidence and are affirmed.

SUMMARY

We affirm the hearing officer's determination that the (date of injury), compensable injury does not extend to sequela partial thickness tear of the right Achilles and tenosynovitis involving flexor digitorum longus, peroneus longus, and peroneus brevis tendon.

We reverse the hearing officer's determination that the (date of injury), compensable injury does not extend to Achilles tendinosis, apart from the acute exacerbation of chronic Achilles tendinosis of the right ankle accepted by the carrier,

and we render a new decision that the (date of injury), compensable injury does extend to Achilles tendinosis.

We affirm the hearing officer's determinations that the claimant reached MMI on September 12, 2014, with a zero percent IR.

The true corporate name of the insurance carrier is **ZNAT INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
1999 BRYAN STREET, SUITE 900
DALLAS, TEXAS 75201-3136.**

Carisa Space-Beam
Appeals Judge

CONCUR:

K. Eugene Kraft
Appeals Judge

Margaret L. Turner
Appeals Judge